C.R.No.122/05

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL REVISION PETITION NO.122/2005

Puran Singh & Ors. Vs. Chittar Mal & Ors.

DATE OF ORDER :: 27/11/2006

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. G.S. Sharma, for petitioners
Mr. S.P. Sharma] for respondents
Mr. K.N. Gupta]

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Instant revision petition has been filed against the order dated 19th September, 2003 whereby the application filed by the respondents under O.7 R.11 CPC was allowed and the plaint was returned back to the petitioners-plaintiffs for its presentation before the appropriate court having jurisdiction to examine the dispute.

The preliminary objection has been raised by the respondents that in view of amendment made u/s.115 CPC, the present revision petition is not maintainable for the reason that if the contention of the petitioners is accepted that would not finally dispose of the suit, but revive the suit for adjudication and counsel has placed reliance on the judgment of Apex Court in **Shiv Shakti Coop. Housing Society Vs. Swaraj Developers [AIR 2003 SC 2434].**

Counsel for petitioners submits that if their contention is accepted, this revision petition may be considered as a writ petition.

In my opinion, in view of amendment made u/s.115 CPC, the present revision is not maintainable, the same stands dismissed. However, the petitioners will be free to avail remedy questioning the order impugned available to them under law.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.